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IN THE UNITED STATES DISTRICT COURT  
  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**LISA MARIE ROBERTS,**  
**Petitioner,**

**vs.**

**NANCY HOWTON,**  
**Respondent.**

**Civ. No. 08-1433-HU**

**MEMORANDUM IN SUPPORT OF  
MOTION FOR LEAVE TO FILE  
SUPPLEMENTAL OBJECTION AND  
FOR LEAVE TO RENEW MOTION FOR  
DISCOVERY**

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Ms. Roberts's habeas corpus petition is currently pending before this Court on objections from the March 1, 2011, findings and recommendations of Magistrate Judge Hubel. CR 47. The Magistrate Judge recommended that Ms. Roberts's petition be dismissed. The Magistrate Judge also denied Ms. Roberts's Amended Motion for

Discovery, finding that the statute of limitations foreclosed consideration of her claim of actual innocence, based on *Lee v. Lampert*, 610 F.3d 1125 (9th Cir. Or. 2010). CR 39.

On August 2, 2011, the Ninth Circuit, *en banc*, reversed its previous decision in *Lee v. Lampert*, holding that a credible showing of “actual innocence” under *Schlup v. Delo*, 513 U.S. 298, 316 (1995), may equitably toll the statute of limitations bar imposed under 28 U.S.C. § 2244(d). *Lee v. Lampert*, No. 09-35276, 2011 U.S. App. LEXIS 15830 (9th Cir. Aug. 2, 2011). The law of Ms. Roberts’s case has changed, necessitating additional legal arguments and a reconsideration of her Amended Motion for Discovery, which was denied on the basis of an opinion that has since been overruled.

Ms. Roberts requests 30 days in order to prepare and submit a supplemental objection and an amended and renewed motion for discovery in light of the *en banc Lee v. Lampert* decision. Following the submission of these materials, a status conference may be necessary.

RESPECTFULLY SUBMITTED this August 16, 2011.

/s/ Alison M. Clark

Alison M. Clark

Attorney for Petitioner